

*Rogers et al. v. U.S. Dept. of Health and Human Servs., et al.*

# Exhibit BB

**to Governor Henry McMaster's and Michael Leach's Motion for Summary Judgment and  
Memorandum in Support Thereof**

**Excerpts from Deposition of Diana Tester**

Page 1

1                   UNITED STATES DISTRICT COURT  
2                   DISTRICT OF SOUTH CAROLINA  
3                   GREENVILLE DIVISION  
4                   EDEN ROGERS AND BRANDY WELCH,  
5                   Plaintiffs,

6                   vs.                   C.A. No. 6:19-cv-01567-JD

7                   UNITED STATES DEPARTMENT OF HEALTH AND  
8                   HUMAN SERVICES; XAVIER BECCERA, IN HIS  
9                   OFFICIAL CAPACITY AS SECRETARY OF THE  
10                  UNITED STATES DEPARTMENT OF HEALTH AND  
11                  HUMAN SERVICES; ADMINISTRATION FOR  
12                  CHILDREN AND FAMILIES; JOOYEUN CHANG, IN  
13                  HER OFFICIAL CAPACITY AS THE SENIOR  
14                  OFFICIAL PERFORMING THE DUTIES OF THE  
15                  ASSISTANT SECRETARY OF THE  
16                  ADMINISTRATION FOR CHILDREN AND  
17                  FAMILIES; JOOYEUN CHANG, IN HER OFFICIAL  
18                  CAPACITY AS PRINCIPAL  
19                  DEPUTY ASSISTANT SECRETARY OF THE  
20                  ADMINISTRATION FOR CHILDREN AND  
21                  FAMILIES; HENRY MCMASTER, IN HIS  
22                  OFFICIAL CAPACITY AS GOVERNOR OF THE  
23                  STATE OF SOUTH CAROLINA; AND MICHAEL  
24                  LEACH, IN HIS OFFICIAL CAPACITY AS STATE  
25                  DIRECTOR OF THE SOUTH CAROLINA  
                    DEPARTMENT OF SOCIAL SERVICES,  
                    Defendants.

26  
27  
28                  VTC 30(b)(6)  
29                  DEPOSITION OF:       SC DSS, Through its agent:  
30   DIANA TESTER  
31                  DATE:                   December 16, 2021  
32                  TIME:                   9:32 a.m.  
33                  LOCATION:             Zoom-Columbia, SC  
34                  TAKEN BY:               Counsel for the Plaintiffs  
35                  REPORTED BY:           Roxanne Easterwood, RPR  
36                  VIDEOGRAPHER:        Roosevelt Hamilton

Page 37

1 directs DSS not to deny licensure to faith-based  
2 CPAs solely on account of their religious identity  
3 or religious belief. Does that -- does that sound  
4 familiar?

5 A. I -- I think -- I -- I don't know.  
6 I -- I'm sure that I've heard of it. I -- you  
7 know, I -- quite honestly, I don't keep track of  
8 orders like that. I -- I just don't. I'm sorry.

9 Q. Is there any way to know  
10 whether -- whether the granting of that order or  
11 of the waiver had any impact on the number of  
12 foster homes?

13 MR. COLEMAN: Object to the form of the  
14 question.

15 But you can answer.

16 THE WITNESS: No. I mean, there would  
17 have to be, like, a huge research,  
18 statistical-type study to see if there's an  
19 association, and -- and, really, I -- I don't even  
20 know how they would control all of the variables.

21 BY MS. MADGAVKAR:

22 Q. Right. The DSS didn't look  
23 into -- into whether the -- the waiver or the  
24 executive order affected the number of foster  
25 homes, right? We talked about that earlier.